

ORDINANCE NO. 2024-9

AN ORDINANCE OF THE TOWN OF EATONVILLE, FLORIDA, AMENDING CHAPTER 30, "SOLID WASTE", OF THE TOWN CODE BY REVISING THE ENCLOSURE REQUIREMENTS FOR COMMERCIAL SOLID WASTE CONTAINERS; PROVIDING THE TOWN PLANNING DIRECTOR WITH THE AUTHORITY TO WAIVE COMMERCIAL CONTAINER ENCLOSURE REQUIREMENTS IN LIMITED CIRCUMSTANCES; ESTABLISHING PROCEDURES FOR THE ADMINISTRATIVE WAIVER OF COMMERCIAL CONTAINER ENCLOSURE REQUIREMENTS; PROVIDING FOR SEVERABILITY; PROVIDING FOR CONFLICTS; PROVIDING FOR CODIFICATION; PROVIDING AN EFFECTIVE DATE.

WHEREAS, pursuant to Fla. Const. art. VIII, § 2(b), and Fla. Stat. § 166.021, the Town has been granted the authority to exercise any power for municipal purposes, except as otherwise provided by law, including the authority to adopt regulations for the health, safety, and welfare of its residents; and

WHEREAS, the Town has determined that current enclosure requirements for commercial solid waste containers need to be updated to enhance aesthetic standards and protect public health and safety; and

WHEREAS, the Town acknowledges that certain unique property conditions may exist where strict compliance with the enclosure requirements is not feasible without creating or exacerbating nonconforming site conditions, and thus, wishes to establish a waiver process to allow property owners to request relief from the enclosure requirements under specific circumstances; and

WHEREAS, the Town also desires to clarify and streamline the language of the existing regulations to improve readability and enforceability; and

WHEREAS, the Town Council finds that this Ordinance serves a legitimate governmental purpose and is in the best interests of the public health, safety, and welfare of the residents of Eatonville, Florida.

NOW, THEREFORE, BE IT ORDAINED BY THE TOWN COUNCIL OF THE TOWN OF EATONVILLE, FLORIDA:

[Words in ~~strike through~~ type are deletions; words in underscore type are additions; asterisks (****) indicate an omission from the existing text which is intended to remain unchanged.]

SECTION 1. RECITALS. The recitals set forth above are hereby adopted as the legislative findings of the Town Council of the Town of Eatonville, Florida.

SECTION 2. AMENDMENT. *Chapter 30 – Solid Waste*, of the Town of Eatonville Code of Ordinances is hereby amended as follows:

ARTICLE III. – COMMERCIAL COLLECTION AND DISPOSAL

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Sec. 30-59. - Commercial containers – Enclosure requirements ~~Location.~~

(a) *Specifications.* Enclosures for commercial containers ~~will~~ shall be located on a concrete ~~or asphalt pad in an area~~ measuring 12 feet by 12 feet. ~~The enclosure itself shall be constructed of enclosed by a concrete masonry walls on three sides and shall be limited to between six and eight feet in height and shall have a secure, lockable gate facing The opening of the enclosure should face the most accessible area for waste removal on the commercial property. Acceptable materials for the gate include chain link, vinyl slatting, wood, wrought iron, or ornamental iron, provided that the design effectively shields the commercial container from public view. For commercial containers not visible from the right-of-way, the requirement for an enclosure shall not apply.~~

(b) *Waiver of enclosure requirements.*

(1) *Authority.* ~~The Planning Director~~ Chief Administrative Officer, or their designee, shall possess the authority to waive the enclosure requirements provided in subsection (a) and approve an alternate enclosure design where, due to the unique physical layout of the property, compliance with the enclosure requirements would result in a significant increase in nonconformity with existing site conditions. Such waivers shall be granted only after a thorough review of the specific circumstances and a determination that the proposed waiver will not adversely impact the overall aesthetics, health, safety, or welfare of the community. The granting of waivers may require additional improvements.

(2) *Requirements.* All waiver requests must be submitted in writing, accompanied by a non-refundable waiver fee. In evaluating waiver requests, ~~the Planning Director~~ Chief Administrative Officer, or their designee, shall consider the following factors: i) the extent to which the property's layout makes it difficult or impractical to comply with enclosure requirements; ii) the potential impact of the waiver on existing zoning regulations, land use plans, and other site conditions; iii) the potential effects of the waiver on the aesthetics, health, safety, and welfare of the community; iv) the availability and feasibility of alternative methods for managing waste that would comply with enclosure requirements.

(3) *Appeal.* Any applicant whose waiver request is denied may appeal the decision to the Town Council within five business days of the denial. The Town Council's decision shall be final.

~~Sec. 30-60. Same Gate required.~~

~~A gate shall be constructed, in the enclosed section, of the commercial container enclosure area. The gating can be constructed of chainlink/vinyl slating, wood, wrought iron or ornamental iron, and must shield the commercial container from visual view.~~

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SECTION 3. CODIFICATION. It is the intent of the Town Council of the Town of Eatonville that the provisions of this Ordinance shall be codified. The codifier is granted broad and liberal authority in codifying the provision of this Ordinance.

SECTION 4. CONFLICTS. All Town ordinances or parts thereof in conflict with this Ordinance are, to the extent of such conflict, repealed.

SECTION 5. SEVERABILITY. If any section, sentence, phrase, word, or portion of this Ordinance is determined to be invalid, unenforceable, unlawful, or unconstitutional by a court of competent jurisdiction, then all remaining provisions of this Ordinance shall remain in full force and effect.

SECTION 6. EFFECTIVE DATE. This Ordinance shall become effective upon its adoption.

Upon motion duly made and carried, the foregoing Ordinance was approved upon its first reading on October 15, 2024.

Upon motion duly made and carried, the foregoing Ordinance was approved upon its second reading on November 5, 2024.

TOWN OF EATONVILLE

Attest:

Angie Gardner, Mayor

Veronica King, Town Clerk

Approved as to form:

Clifford B. Shepard, Town Attorney